



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0491]

RIN 1625-AA00

Safety Zone; 2014 Fireworks Displays in Northern New England

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing four temporary safety zones within Sector Northern New England's (SNNE) Captain of the Port (COTP) Zone for fireworks displays. When these safety zones are enforced, this rule will restrict vessels from portions of the affected water areas. These temporary safety zones are necessary to protect spectators and vessels from hazards associated with fireworks displays.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 10:30 p.m. on August 23, 2014. For purposes of enforcement, actual notice will be used from the date the rule was signed, July 3, 2014, until [INSERT DATE OF

PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0491]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Junior Grade Elizabeth Gunn, U.S. Coast Guard, Sector Northern New England, Waterways Management Division; telephone (207) 767-0398, Elizabeth.V.Gunn@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

## A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The Coast Guard was not aware of the final details for these events until there was insufficient time for the Coast Guard to solicit public comments prior to the start of the events. Waiting for a full comment period to run would inhibit the Coast Guard's ability to keep vessels safe from the hazards associated with a nighttime maritime fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register for the same reasons discussed in the preceding paragraph.

## B. Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety zones.

Four fireworks displays will take place within the COTP zone between the dates of July 4, 2014 and August 23, 2014. The COTP Sector Northern New England has determined that these fireworks displays will create hazards for the maritime public. The COTP Sector Northern New England has further determined that safety zones are necessary to protect spectators and vessels from such hazards.

## C. Discussion of the Final Rule

This temporary final rule will establish four safety zones, each within a 350-yard radius of the coordinates listed in TABLE TO §165.T01-0491. TABLE TO §165.T01-0491 provides the event name and sponsor, as well as the specific date, time, and location of each fireworks display. Each safety zone is effective and will be enforced during the times listed in the TABLE TO §165.T01-0491. This temporary final rule is necessary to ensure the safety of spectators, vessels and other property from the hazards associated with fireworks displays.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking is not a significant regulatory action as the enforcement period for each safety zone will be relatively short in duration, each occurring for only one evening. Also, each safety zone is designed to allow vessels to transit in waters adjacent to the safety zone, minimizing any adverse impacts on vessel navigation. Furthermore, under certain circumstances vessels may obtain permission to transit through each safety zone.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit each safety zone. However, this rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the REGULATORY PLANNING AND REVIEW section.

## 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions

concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of

government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order



12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of temporary safety zones and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under ADDRESSES. We seek any comments or information that may

lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add §165.T01-0491 to read as follows:

§165.T01-0491 Safety Zone; 2014 Fireworks Displays in Northern New England.

(a) Locations. All U.S. navigable waters within a 350 yard radius of the coordinates listed in the table below are safety zones.

(b) Regulations. The following regulations, along with those located at 33 CFR 165.23, apply:

(1) The Coast Guard may patrol each safety zone under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM." The "official patrol vessels" may consist of any Coast Guard, state, or local law enforcement vessels assigned or approved by the Captain of the Port, Sector Northern New England

(2) No person or vessel may enter, anchor, block, loiter, or transit a safety zone during an enforcement period, unless authorized by the COTP Sector Northern New England or the Patrol Commander.

(3) Persons and vessels permitted to enter a safety zone during an enforcement period shall follow the directions of the Patrol Commander. When hailed or signaled by an official patrol vessel within the safety zone, a vessel shall come to an immediate stop and comply with the lawful directions issued. Failure to comply with such lawful directions may result in expulsion from the safety zone, citation for failure to comply, or both.

(4) Vessels permitted to transit a safety zone must operate at a no wake speed and in a manner that will not endanger participants or other crafts in the event.

(c) Effective and enforcement periods. Each safety zone established by this section will be effective and enforced

on the dates and at the approximate times listed in the table below.

(d) Notification. The Coast Guard will further notify the public of the enforcement periods for these safety zones via the Local Notice to Mariners, which can be viewed at: [www.navcen.uscg.gov/LNM/default.htm](http://www.navcen.uscg.gov/LNM/default.htm).

TABLE TO §165.T01-0491

<b>July</b>	
<b>Castine 4<sup>th</sup> of July Fireworks</b>	<ul style="list-style-type: none"> <li>• Sponsor: Randy Sterns, Town of Castine</li> <li>• Date: July 4, 2014</li> <li>• Time: 9:00 p.m. to 10:30 p.m.</li> <li>• Location: In the vicinity of the Castine Town Dock in Castine, Maine at approximate position: 44°23'10"N, 68°47'28"W (NAD 83).</li> </ul>
<b>Paul Coulombe Anniversary Fireworks</b>	<ul style="list-style-type: none"> <li>• Sponsor: Paul Coulombe</li> <li>• Date: July 19, 2014</li> <li>• Time: 9:00 p.m. to 10:30 p.m.</li> <li>• Location: In the vicinity of Pratt Island, Maine at approximate position: 43°48'44"N, 069°41'11"W (NAD 83).</li> </ul>
<b>August</b>	
<b>Paul Coulombe Fireworks Show 2</b>	<ul style="list-style-type: none"> <li>• Sponsor: Paul Coulombe</li> <li>• Date: August 22, 2014</li> <li>• Time: 9:00 p.m. to 10:30 p.m.</li> <li>• Location: In the vicinity of Pratt Island, Maine at approximate position:</li> </ul>

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43°48'44"N, 69°41'11"W (NAD 83).

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**Cucchiara Birthday** • Sponsor: Vin Cucchiara  
**Fireworks Display** • Date: August 23, 2014  
• Time: 9:00 p.m. to 10:30 p.m.  
• Location: In the vicinity of Bumpkin  
Island near Kennebunkport, Maine at  
approximate position:  
43°20'52"N, 070°26'49"W (NAD 83).

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Dated: July 3, 2014.

B. S. GILDA,  
Captain, U. S. Coast Guard,  
Captain of the Port Sector Northern New England.

[FR Doc. 2014-17485 Filed 07/23/2014 at 8:45 am; Publication Date: 07/24/2014]